

July 24, 2002

Dear Colleague:

I would like to thank you for the work you are doing to improve the achievement of all students. The *No Child Left Behind Act* (NCLBA) significantly raises expectations for States, local educational agencies and schools in that all students are expected to meet or exceed State standards in reading and in math within 12 years. It also provides a significant increase in resources to assist States in meeting these new expectations. This bipartisan Act is intended to build upon and enhance accountability systems that States have been developing since, or prior to, the 1994 reauthorization of the Elementary and Secondary Education Act (ESEA). I would like to applaud the efforts States have made to develop and implement high quality accountability systems based on challenging standards and assessments and high expectations for students. Working together, we can ensure that all students succeed and that the achievement gap is closed, once and for all.

Accountability is central to the success of the *No Child Left Behind Act*: States need to set high standards for improving academic achievement in order to improve the quality of education for all students. Under the NCLBA, each State establishes a definition of "adequate yearly progress" (AYP) to use each year to determine the achievement of each school district and school. The new definition of AYP is diagnostic in nature, and intended to highlight where schools need improvement and should focus their resources. The statute gives States and local educational agencies significant flexibility in how they direct resources and tailor interventions to the needs of individual schools identified for improvement. Under the NCLBA, schools are held accountable for the achievement of all students, not just average student performance. Ensuring that schools are held accountable for all students' meeting State standards represents the core of the bipartisan Act's goal of ensuring that no child is left behind.

The purpose of the statute, for both assessments and accountability, is to build on high quality accountability systems that States already have in place, not to require every State to start from scratch. Therefore, I want to assure you that the Department will work with States so that they have the tools they need to implement definitions of AYP that meet the requirements of the statute and maintain high standards.

States are to identify for improvement any Title I school that does not meet the State's definition of adequate yearly progress for two consecutive years. However, it is important to underscore the flexibility granted by the statute to State and local educational agencies to direct resources and tailor interventions to the needs of individual schools. For example, the statute gives States and LEAs flexibility in how they can direct Title I school improvement funds to schools that need the most improvement. It also provides a list of consequences under "school improvement," "corrective action" and "restructuring" that allow States to take a range of actions. For example, under "corrective action" the options range from more limited consequences such as hiring an outside expert to advise a school on how to make adequate yearly progress, to more significant

measures such as replacing school staff or restructuring the internal organization of a school (*see attached chart*).

States are free to build on the statutory requirements and to develop differentiated responses based on the degree to which a school has not made AYP. The law does not prescribe how States must officially designate schools that do not meet AYP requirements.

For example, a State could develop categories based on the number of subgroups that make AYP:

1. All groups of students meet AYP goals.
2. All but one or two subgroups meet AYP goals.
3. All but one or two subgroups, and the school as a whole, do not meet AYP goals.
4. No group of students meets AYP goals.

AYP should be used to target the unique needs of schools to improve student achievement. It does not necessitate a “one size fits all” response without regard to how well a school is doing overall. However, any Title I school in which any group of students fails to meet the AYP goal must be identified as in need of improvement, and all such schools that are identified are subject to the timeline for improvement required under Section 1116. Regardless of the degree to which a school is not making AYP, an LEA must take actions to address the needs of the school and improve achievement, provide public school choice for all students in any school that is identified for improvement, and provide supplemental education services for eligible students in schools that continue to not make AYP, as required under Section 1116.

It should be noted that the statute permits schools that do not meet a statewide proficiency goal to also make AYP if, in the subgroup that does not meet this bar, there was at least a ten percent reduction from the previous year in the percentage of students who are not proficient and that subgroup made progress on the other state-designated academic indicator. For example, if the percentage of disadvantaged students not proficient in reading decreases from 70 percent to 63 percent the following year, that group has made sufficient progress.

The Department will issue proposed regulations that address in detail the requirements for State accountability systems. The purpose of this letter is to clarify the process for reviewing and approving State definitions of AYP and to provide you with additional guidance by highlighting criteria that will be used in this process.

## **GUIDANCE ON AYP CRITERIA AND THE PEER REVIEW PROCESS**

States will be required to submit their definitions of AYP for review at the beginning of 2003, although those States applying for State Flex<sup>1</sup> will have to submit definitions for approval this

---

<sup>1</sup> The NCLBA enacted significant new flexibility options for State and local school districts. The State Flexibility Demonstration Program allows States to receive additional flexibility in exchange for increased accountability for achievement. For more information about the flexibility options in the NCLBA, please go to our web site at <http://www.ed.gov/flexibility/>.

fall. In order to ensure that States can move expeditiously to implement their new definitions of AYP, States can submit the plans for review this fall even if they are not applying for State Flex. The Department will provide additional AYP guidance and more details about the requirements of the review process. All definitions will be peer reviewed, as required by the statute, by a panel that includes representatives of parents, teachers, State educational agencies and local educational agencies. Peer review panelists will make recommendations as to how well each proposed definition meets the requirements of the statute. Approaches to meeting the statutory requirements that are at least as rigorous as the requirements of the statute and the regulations will be considered, provided that a State demonstrates that its system meets the following criteria:

**1. A single statewide accountability system applied to *all* public schools and LEAs.<sup>2</sup>**

- “All schools and LEAs” includes Title I and non-Title I schools and LEAs.
- Student assessments are administered and the accountability system is applied in the same manner for all schools, regardless of receipt of Title I funds.<sup>3</sup>

**2. *All* public school students are included in the State accountability system.<sup>4</sup>**

- A student attending the same school for a “full academic year” must be included when determining if a school has made AYP.
- A student that attends more than one school in a district during the school year is only included in determining if a district has made AYP.
- All student results are included in the school level report card.

**3. A State’s definition of AYP is based on expectations for growth in student achievement that is continuous and substantial, such that all students are proficient in reading and math no later than 2013-2014.<sup>5</sup>**

- Accountability systems must establish proficiency goals statewide, based on assessment data from the 2001-02 school year, that progressively increase to reflect 100 percent proficiency for all students by 2013-14.
- These goals must increase at steady and consistent increments during the 12-year timeline, although not necessarily annually throughout the 12 years (i.e., States cannot establish goals that will require the most substantial progress toward the end of the 12-year timeline).
- Increases in proficiency rates must occur for a school to make AYP. Progress in student achievement from the “below basic” to the “basic level” is not in and of itself sufficient to meet AYP requirements. However, States and LEAs are strongly encouraged to develop systems to recognize very low-performing schools that are making such improvement.

---

<sup>2</sup> Sections 1111(b)(2)(A) and 1111(b)(2)(C)(i).

<sup>3</sup> Requirements for school improvement, corrective action and restructuring under Section 1116 only apply to schools receiving Title I funds.

<sup>4</sup> Sections 1111(b)(2)(A), 1111(b)(3)(C)(xi), 1111(b)(3)(C)(xi), and 1111(b)(3)(C)(xiii).

<sup>5</sup> Sections 1111(b)(2)(C)(iii), 1111(b)(2)(F), and 1111(b)(2)(H).

- 4. A State makes annual decisions about the achievement of all public schools and LEAs.<sup>6</sup>**
  - States may calculate AYP for a school using up to three consecutive years of data.
  - If a State chooses to average data over two or three years, it must still determine whether a school or district made AYP on an annual basis.
- 5. All public schools and LEAs are held accountable for the achievement of individual subgroups.<sup>7</sup>**
  - Accountability decisions must be based on the achievement of each subgroup in the law, as well as overall achievement.
  - States must set separate, measurable annual objectives for each of these subgroups that ensure they meet the deadline to reach proficiency within 12 years.
  - Subgroups for accountability are major ethnic/racial groups, economically disadvantaged students, limited English proficient (LEP) students, and students with disabilities. The goals for each subgroup may be the same as long as each subgroup reaches 100 percent proficiency in 12 years.
- 6. A State's definition of AYP is based primarily on the State's academic assessments.<sup>8</sup>**
  - Decisions about school and LEA progress must be primarily determined by achievement on academic assessments.
- 7. A State's definition of AYP includes graduation rates for high schools and an additional indicator selected by the State for middle and elementary schools (such as attendance rates).<sup>9</sup>**
  - Other academic indicators may be included in addition to these required indicators.
  - These indicators may only have the effect of indicating a school did not make AYP. In other words, a State may use these indicators to identify a school for improvement, but they may not be used to prevent a school from being identified for improvement.
- 8. AYP is based on separate reading/language arts and math achievement objectives.<sup>10</sup>**
  - Each subgroup of students enrolled in schools and LEAs must meet annual objectives in reading and math for the school or LEA to make AYP.
- 9. A State's accountability system is statistically valid and reliable.<sup>11</sup>**
  - In determining AYP, a State is not required to use disaggregated data when the number of students in a subgroup is (a) too small to yield statistically reliable information or (b) the results would reveal personally identifiable information.
  - Each State determines a minimum size of a group, below which the results would not be statistically reliable for use in determining AYP. States make a reasonable

---

<sup>6</sup> Section 1111(b)(2)(J).

<sup>7</sup> Sections 1111(b)(2)(C)(v), 1111(b)(2)(C)(v), and 1111(b)(2)(C)(v)(II).

<sup>8</sup> Section 1111(b)(2)(C)(iv).

<sup>9</sup> Section 1111(b)(2)(c)(vi).

<sup>10</sup> Section 1111(b)(2)(G)(i)

<sup>11</sup> Section 1111(b)(2)(C)(ii)

determination of that number based on the technical specifications of their assessments.

**10. In order for a school to make AYP, a State ensures that it assessed at least 95% of students in each subgroup enrolled.<sup>12</sup>**

- Schools must report all student results by subgroup. The number of students in a subgroup must be of sufficient size to produce statistically reliable results for the 95% requirement to affect AYP. In other words, if the number of students in a subgroup is too small to produce statistically reliable results, the State need not, on the basis of the 95% requirement, identify the school as not making AYP, even if fewer than 95% of the students in that subgroup take the State's assessment.

In general, the NCLBA sets the *minimum* requirements for statewide accountability systems. States should use these requirements to enhance their current systems. This letter is intended to amplify our proposed regulations and provide States with information necessary to be successful in the upcoming State accountability system peer review process. I encourage you to review and comment on our proposed regulations. Please know that my staff and I are available to work with you as we move forward. I look forward to our collaboration on implementing this most fundamental aspect of the NCLBA.

Sincerely,

Rod Paige

Enclosure

---

<sup>12</sup> Section 1111(b)(2)(I)(ii).

## SCHOOL IMPROVEMENT OPTIONS

	<p>A school is identified for school improvement after it has not made AYP for two consecutive school years. A school moves to the next “step” or “year” in this chart if it continues to not make AYP.</p>
<p><b><i>School Improvement (Year One)</i></b></p>	<p>In general, schools identified for improvement must receive technical assistance that enables them to specifically address the academic achievement problem that caused the school to be identified for improvement. The LEA is required to provide technical assistance as the school develops and implements the plan, including specific assistance in analyzing assessment data, improving professional development, and improving resource allocation. In addition, the following must take place:</p> <ol style="list-style-type: none"> <li>1. All students are offered public school choice.</li> <li>2. Each school identified for improvement must develop or revise a two-year school improvement plan, in consultation with parents, school staff, the local educational agency, and other experts, for approval by the LEA. The plan must incorporate research-based strategies, a 10 percent set-aside of Title I funds for professional development, extended learning time as appropriate (including school day or year), strategies to promote effective parental involvement and mentoring for new teachers.</li> </ol>
<p><b><i>School Improvement, (Year Two)</i></b></p>	<ol style="list-style-type: none"> <li>1. Make available supplemental educational services to students from low-income families.</li> </ol> <p><i>In addition, the LEA continues to offer technical assistance to implement the new plan, and offer public school choice.</i></p>
<p><b><i>Corrective Action (Year Three)</i></b></p>	<p>Corrective Action requires an LEA to take actions likely to bring about meaningful change at the school. To accomplish this goal, LEAs are required to take at least one of the following corrective actions, depending on the needs of the individual school:</p> <ol style="list-style-type: none"> <li>1. Replace school staff responsible for the continued failure to make AYP;</li> <li>2. Implement a new curriculum based on scientifically based research (including professional development);</li> <li>3. Significantly decrease management authority at the school level;</li> <li>4. Extend the school day or school year;</li> <li>5. Appoint an outside expert to advise the school on its progress toward making AYP in accordance with its school plan; OR</li> <li>6. Reorganize the school internally.</li> </ol> <p><i>In addition, the LEA continues to offer technical assistance, public school choice and supplemental educational services.</i></p>

<b><i>Restructuring (Year Four)</i></b>	<p>During the first year of restructuring, the LEA is required to prepare a plan and make necessary arrangements to carry out one of the following options:</p> <ol style="list-style-type: none"> <li>1. Reopen school as charter school.</li> <li>2. Replace principal and staff.</li> <li>3. Contract for private management company of demonstrated effectiveness.</li> <li>4. State takeover.</li> <li>5. Any other major restructuring of school governance.</li> </ol> <p><i>In addition, the LEA continues to offer public school choice and supplemental educational services.</i></p>
<b>Implementation of Restructuring (Year Five)</b>	<p>Implement alternative governance plan no later than first day of school year following year four described above.</p>